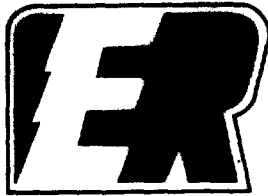


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EAST RIVER
ELECTRIC POWER COOPERATIVE

121 Southeast First St. Post Office Drawer E
Madison, SD 57042 Telephone (605) 256-4536

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FCC MAIL ROOM

August 26, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. Room 814
Washington, D.C. 20554

Ex Parte

Re: GN Docket No. 93-252, Regulatory Treatment
of Mobile Services

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, attached are two copies of a written presentation from East River Electric Power Cooperative to Chairman Hundt regarding the above-referenced docket. Copies of this presentation were also provided to each of the other Commissioners' Offices and the Chief of the Private Radio Bureau.

Please let me know if there are any questions concerning this transmittal.

Sincerely,


Jeffrey L. Nelson
General Manager

JLN/jc

Attachment

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Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W. Room 814
Washington, D.C. 20554

FCC MAIL ROOM Ex Parte

Re: GN Docket No. 93-252, Regulatory Treatment
of Mobile Services

Dear Chairman Hundt:

This letter is submitted as a follow-up to recent discussions between representatives of East River Electric Power Cooperative (East River) and the Commission staff regarding the pending "freeze" on the filing of applications for new 800 MHz Specialized Mobile Radio (SMR) Service facilities. As explained herein, East River urges the Commission not to extend this freeze to the processing of pending applications. Such an action would have a devastating impact on East River, which has already spent \$2.7 million towards the construction of a wide area 800 MHz radio system to meet East River's communications requirements as well as those of its member distribution cooperatives, local government agencies, and others in the largely rural area served by East River.

East River Electric Power Cooperative, headquartered in Madison, South Dakota, is the wholesale electric power supply and transmission cooperative serving 25 member cooperative systems and one municipal electric system in eastern South Dakota and western Minnesota.

These member distribution systems, in turn, serve more than 70,000 rural service accounts and approximately 250,000 people with retail electric service.

East River operates and maintains more than 2500 miles of high voltage transmission line and 200 substations serving an area of 36,000 square miles, about the same size as the state of Indiana. As part of its system operation, East River operates extensive telecommunications facilities to assure the highest standards of system reliability and efficiency. These include over 60 private fixed microwave stations, fiber optic facilities, and extensive use of VHF and UHF radio for voice communication and as data channels associated with remote control and data acquisition and load management systems.



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In 1987 East River recognized that the VHF low-band mobile radio system it had utilized since the early 1950's could no longer provide reliable service nor provide the state-of-the-art services which were required to implement current technology. We also recognized that the radio systems operated independently by each of East River's 25 distribution cooperatives did not provide the coordinated communications services needed and were not economically or spectrally efficient.

A study of various alternatives available for a replacement mobile radio system revealed that an 800 MHz wide-area trunked system was the only feasible alternative available which could provide "seamless" roaming capabilities required by East River and coordinated communications required by its member cooperatives for utility operation. A search for a possible service provider throughout the service territory revealed that no commercial services were available and in fact even cellular service was not available in many areas of our service area. Consequently, East River was faced with making the substantial investment to provide the services needed for itself and its member cooperatives.

East River studied its options for developing a more efficient mobile radio system to meet its needs as well as those of its member distribution cooperatives. For the wide area coverage required by East River, it was discovered that at least 17 repeater stations would be required for an 800 MHz trunked radio system, at a total construction cost of approximately \$2.8 million. As a non-profit electric cooperative, East River would be eligible to apply for Industrial/Land Transportation frequencies, which, under current FCC Rules, could be used to meet East River's internal communications requirements or those of other Industrial/Land Transportation eligibles on a non-profit, cost-sharing basis. Use of SMR frequencies, on the other hand, would provide East River with the ability to share capacity with local government agencies or other local businesses in order to help underwrite the significant costs involved in developing this system.

The decision was therefore made to request licensing as an SMR. License applications for the 17-site, 5-channel SMR system were filed via the FCC's lockbox bank on January 4, 1994, and were assigned file numbers 654521 through 654537. We reasonably expected grant of authorization to occur around July, 1994 since none of the applications were in a wait-listed area at the time of filing. Consequently, we began construction of the system. The total anticipated cost of the system was budgeted at \$2.8 million. The construction schedule called for completion by September, 1994 in order to avoid construction during the adverse winter weather conditions typical of the region.

By July, 1994 East River had spent \$2.7 million on the 800 MHz radio system and the system was nearly ready for operational and coverage testing to begin. We were advised that the FCC's processing time was currently running at nine months which would delay review of our applications until September, 1994. East River filed for a Special Temporary Authority (STA) on June 17,

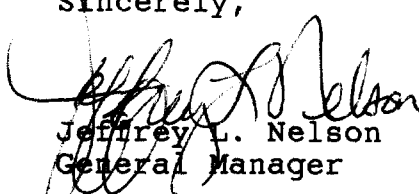
August 26, 1994

1994. This STA was granted on July 14, 1994 under the call sign WYN725 and is valid for 180 days for testing purposes only. As of this date, 13 of the 17 sites are operational, along with the wide-area logic controller and operator consoles. The system is operating on the channel pairs specifically requested in the original license applications without interference to co-channel or adjacent channel users.

On August 9, 1994 the FCC announced its decision to freeze 800 MHz SMR applications until new licensing rules are adopted. East River does not believe that the intent of the freeze was to deny grant of authorizations, which were pending for non-speculative, spectrum efficient, public-interest serving systems which had already made substantial capital investment or were essentially constructed and operating under Special Temporary Authority. Such action would cause disruption of East River's electric utility business plan, undermine our substantial investment and deny timely service provision to the systems primary internal users and our member cooperatives who have immediate need for enhanced communication services scheduled to be on line by September, 1994. Timely grant of authorization of this system is critical to maintaining the standards of reliability and efficiency required in our electric utility operation.

East River Electric Power Cooperative therefore respectfully requests the Commission to clarify that the recently-announced freeze on the acceptance of new SMR applications will not affect the processing of pending applications. Please let me know if I can provide you or your staff with any further information in connection with this matter.

Sincerely,



Jeffrey L. Nelson
General Manager

JLN/jc

cc: Commissioner James Quello
Commissioner Andrew Barrett
Commissioner Rachelle Chong
Commissioner Susan Ness
Karen Brinkman, FCC
Rudy Baca, FCC
Lisa Smith, FCC
Jill Lockett, FCC
David Siddall, FCC
Ralph Haller, FCC